

FEDERAL TRADEMARK DILUTION
ACT OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent to proceed to the immediate consideration of H.R. 1295, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1295) to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, passage of this bill is part of our effort to improve intellectual property protection around the world. I hope that it will serve to improve trademark enforcement domestically and serve as a model for our trading partners overseas.

Along with the Anti-Counterfeiting and Consumer Protection Act of 1995, S. 1360, which recently passed the Senate and has already been the subject of a hearing and markup before the House Judiciary Committee's Subcommittee on Courts and Intellectual Property, this bill will help protect the good names, reputations for quality, and investments of American companies from IBM to Ben & Jerry's.

Although no one else has yet considered this application, it is my hope that this antidilution statute can help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others.

I thank our House colleagues for their work on this bill. It is a pleasure to work with Chairman MOORHEAD and the House subcommittee on these matters. I commend, in particular, Representative SCHROEDER for her outstanding work on this measure. Our House colleagues have announced their intention not to seek reelection next fall. Their leadership and judgment will be greatly missed.

When we in the Senate last considered and passed a similar bill to provide an injunctive remedy against the dilution of the effectiveness of distinctive marks, we did so as part of more comprehensive trademark revision legislation in 1988. Since that time the dilution of well-known marks has become a greater problem both domestically and, especially, internationally.

We intend for this legislation to strengthen the hand of our international negotiators from the Office of the U.S. Trade Representative and the Department of Commerce as they press for bilateral and multilateral agreements to secure greater protection for the world famous marks of our U.S. companies. Foreign countries should no longer argue that we do not protect our marks from dilution, nor seek to excuse their own inaction against practices that are destructive of the distinctiveness of U.S. marks within their borders.

I am delighted that bill now includes express reference to fair use, news reporting, and news commentary. I continue to believe, as our House colleagues also affirm, that parody, satire, editorial, and other forms of expression will remain unaffected by this legislation.

Finally, I want to acknowledge the strong support of the U.S. Patent and Trademark Office, the Department of Commerce, and that of the International Trademark Association and its many members. Without their efforts, we would not be in position to approve this legislation and send it to the President for his signature.

Mr. President, this was an example of Senator HATCH, myself, and others working in a bipartisan effort to get a major piece of legislation through. I thank the leader for his efforts in getting it through.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1295) was deemed read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 439.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was considered and confirmed, as follows:

Jed S. Rakoff, of New York, to be U.S. District Judge for the Southern District of New York.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate that we have had a meeting all afternoon at the White House, and I will say, without violating our agreement on statements, afterward we had a good working session. We covered a lot of ground. We are going to meet to-

morrow morning. We are going to be there all day, and probably through the evening. We will determine then whether or not we will be here Sunday or Monday. I think it is fair to say that we had a constructive session where everybody, in my view—regardless of party, regardless of being from the White House, Democrats or Republicans, the House or the Senate—had one thing in mind: trying to move the process along to get a balanced budget over the next 7 years.

I think there is a recognition that most Americans, regardless of party, want us to do that. We are not there yet. We have a lot of work to do. But I would say that today has been a day of progress.

I would also say that it had been my hope earlier that we could work out an agreement where Federal employees could go back to work. A week ago today we passed a measure in the Senate by unanimous consent that, in effect, deemed all Federal employees "essential" and also guaranteed that they would be paid. That bill went to the House, but it has not been considered.

I was advised today by the majority leader in the House, Congressman ARMEY, and the speaker, Congressman GINGRICH, that if we would send to the House the same measure we passed last week, and the so-called Mideast Peace Facilitation Act, and a third provision with reference to expedited procedures, so that once an agreement is reached there will be some expedited procedure in the Senate so that we will be certain we get a disposition of it, that they would be able to take that up today, Friday, by unanimous consent in the House. That was their best judgment. And so I was in hopes that we could work that out on the Senate side.

I was advised at the White House by the distinguished Democratic leader, Senator DASCHLE, that they would have to object because of the expedited procedure language, which seems to me something we ought to be able to work out. If we want people to go back to work and we want to make certain they will be paid and we also want to pass another very important piece of legislation, we ought to be able to reach some agreement on how we are going to handle the bill if we have an agreement, or if we do not have an agreement, how would we handle the balanced budget amendment.

I will ask that the text of this be printed in the RECORD after I ask unanimous consent, which will be objected to. But we have just taken the Budget Act, reduced the time to 10 hours, open to amendment during that 10 hours. Otherwise, we kept the Byrd amendment, for example. So we hope that the Democratic leader will have an opportunity between now and tomorrow to maybe come back with a counteroffer, because we are ready to act, put people back to work, and my view is that it is a very important matter that should be attended to.

UNANIMOUS CONSENT REQUEST—
H.R. 2808

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2808, regarding Middle East peace facilitation, that there be one amendment in order, which contains identical text of H.R. 2808, identical text of S. 1508, the so-called back to work provision, and expedited procedure language with respect to Senate consideration of the Balanced Budget Act by 2002, that the amendment be deemed agreed to, the bill be read the third time, and passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President. There would be no objection to the passage of the Middle East Peace Facilitation Act, which I think the majority of Senators on both sides of the aisle would like to see passed and I think would be critical in the interest of the countries in the Middle East for peace, but also in our own national security interests.

The back to work provision was passed, as the distinguished majority leader knows, with the support of the Democratic leader and all Members on this side of the aisle and on his side by unanimous consent last Saturday. And the other body had decided to take off and, I guess, go home on the Christmas vacation and not take it up. So we would have no objection to that.

The last part is the part I object to, Mr. President, because what we are saying is we will change the Senate rules on the time of debate and all on a bill, which nobody—neither the distinguished majority leader nor myself—knows what is in it. We all know we have the same goal, and both he and I agree to have a balanced budget by 2002. But we do not know what is in it. I do not think I would be able to get consent of many Members to waive, basically, the Senate rules on a piece of legislation that we have not yet seen. But I certainly hope that some type of procedure can be put together, and I assume that at the time when the budget comes up, it will be under some form of expedited procedure.

So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, let me indicate that, of course, under one scenario, if an agreement is reached, it will be reached with the President of the United States and with the Democratic leaders of the House and the Senate. So it is not something that has not been discussed. I know they are doing—as we are doing—checking with every committee chairman on every issue that might affect anyone's jurisdiction. The Democrats are doing it and the Republicans are doing it. We want to make certain that as many people as possible can be consulted as we proceed to try to reach some agree-

ment on a balanced budget over the next 7 years scored by the Congressional Budget Office which the American people by a large margin want.

For the last couple of weeks, there has been this problem of Federal workers and whether or not they could go to work. Some tried to go, and they were turned away. There is a lot of gnashing of teeth by Federal workers through no fault of their own because the appropriations bill were vetoed—for example, whether it was the HUD-VA, or Interior, or the State, Justice, Commerce veto by the President. Those people are not working.

The President signed the Agriculture bill. So the people in the Department of Agriculture are working.

Labor-HHS is being held up on a party-line vote. We cannot bring it up on the floor. There are a lot of employees there who are not working.

We did by unanimous consent cover the District of Columbia until January 3.

That leaves one bill, foreign operations, which is hung up over one amendment, and we believe that could and should be resolved at an early date.

But the point is now we are in the position where at least by deeming the Federal workers to be essential employees and by in effect guaranteeing pay, that they will get it right away, but once the budget agreement has been agreed to, it would happen. All that is holding us up now and everybody going back to work tomorrow, or Sunday, or Monday, or Tuesday after the holidays is whether or not my colleagues on the other side will help us expedite the passage of a balanced budget agreement.

Now, it seems to me that we ought to be able to work that out. I am prepared to do that. I think the Senator from South Dakota, the Democrat leader, indicated after we left the White House that he was certainly willing to discuss it further.

We will be in session tomorrow. The House is on call. They can be in session tomorrow. And it is my hope that we can figure out some way to pass this package, unless there is a modification that we have not thought of. We could put a time agreement on how long it would be in effect. So it would only be a temporary modification of the present rules maybe until February 15, whatever. But I hope that we will sit down and work it out.

I think the White House has an interest in trying to resolve this issue. And they have copies. I have given a copy of this to the President. I discussed it with the President myself before I left the White House. Mr. Panetta has a copy. Hopefully there will be enough ideas and thoughts on it overnight so that early in the morning we can reach some agreement, get it passed, and let people go back to work—the people who are caught in the middle, so to speak—and let them go back to work knowing that they will be paid.

So I ask unanimous consent that the text of the bill I proposed be printed in

the RECORD so my colleagues may have an opportunity to study it tomorrow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 3. CONGRESSIONAL CONSIDERATION OF THE BALANCED BUDGET BILL.

(a) INTRODUCTION AND CONSIDERATION OF THE BALANCED BUDGET AGREEMENT.—

(1) INTRODUCTION.—The balanced budget bill, described in (a)(3), shall be introduced in the House of Representatives by the Chairman of the Budget Committee of that House and, in the Senate, by the Majority Leader, after consultation with the Minority Leader. In the Senate, the balanced budget bill shall not be referred to committee but shall be placed directly on the Calendar.

(2) CONSIDERATION.—In the Senate, the balanced budget bill shall be considered as if it were a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, with the following exceptions:

(A) Debate in the Senate on the balanced budget bill, and all amendments, thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours.

(B) Upon expiration of the 10 hours of debate, without intervening action, the Senate shall proceed to vote on the final disposition of the balanced budget bill.

(3) BALANCED BUDGET BILL.—As used in this section, the term “balanced budget bill” means the bill that achieves a balanced budget not later than fiscal year 2002 that is introduced pursuant to subsection (a).

(b) REVISED AGGREGATES AND ALLOCATIONS.—

(1) REVISION.—The chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each submit to its House—

(A) revised levels of total new budget authority, budget outlays, and Federal revenues set forth in House Concurrent Resolutions 67 (One Hundred Fourth Congress) as required by section 301 of the Congressional Budget Act of 1974; and

(B) revised allocations of new budget authority and total outlays and in the House entitlement authority set forth in the joint explanatory statement accompanying the conference report on that concurrent resolution as required by section 602 of the Congressional Budget Act of 1974,

consistent with the balanced budget bill introduced pursuant to subsection (a).

(2) ADJUSTMENTS.—The adjustments required under (1) shall be made upon the introduction of the balanced budget bill pursuant to subsection (a).

(3) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—In the House of Representatives and the Senate, revised levels and allocations submitted under paragraph (1) shall be deemed as the levels and allocations for purposes of sections 302 and 602, and 311 of the Congressional Budget Act of 1974.

(4) Upon the enactment of a bill referred to in subsection (b), the chairmen of the Committees on the Budget may make necessary technical revisions to the revised allocations made under subsection (b).

MAKING MINORITY PARTY APPOINTMENTS FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, on behalf of the Democrat leader, I send to the desk a resolution making minority committee appointments, and I ask for its immediate consideration.